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No. 254] NEW DELHI, MONDAY, MAY 20, 1957/VAISAKHA 30, 1879

ELECTION COMMISSION, INDIA NOTIFICATION

(New Delhi, the 14th May 1957

S.R.O. 1650.—In pursuance of the provisions of sub-section (1) of section 86 of the Representation of the People Act, 1951, the Election Commission hereby publishes a copy of the Election Petition No. 324 of 1957, presented to the Commission on the 26th April, 1957 under section 81 of the said Act, by Shri Lal Rudra *alias* Lal Rudra Narain Pal, s/o Shri Harivansh *alias* Harivansh Prasad Pal, Athadama House, Malaviya Road, Basti (Uttar Pradesh), calling in question the election to the House of the People from the Basti constituency of that House of Shri Keshava Deva Malaviya, Minister for Natural Resources and Scientific Research, Safdarjang Road, New Delhi.

Presented to me by Shri Lal Rudra whose signature has been obtained in the margin and attested as having been signed before me this the twenty-sixth day of April one thousand and nine hundred and fifty-seven.

(Sd.) DIN DAYAL, Under Secy.,
Election Commission, India.

(Sd.) LAL RUDRA NARAIN PAL,
Attested.

(Sd.) DIN DAYAL,
The 26th April, 1957.

ELECTION PETITION No. 324 OF 1957

To

The Election Commission,
Union of India,
New Delhi.

Lal Rudra *alias* Lal Rudra Narain Pal, son of Harivansh *alias* Harivansh Prasad Pal, an Elector in No. 349 Basti Parliamentary Constituency (Double-Member) for Election to the House of the People—*Petitioner*.

Versus

1. Keshava Deva Malaviya Minister for Natural Resources and Scientific Research, Safdarjang Road, New Delhi.
2. Krishna Karunakar Nayar, Lorenpore House, Faizabad, U.P.
3. Ayodhya Prasad, Mehawal, District Basti, U.P.
4. Ram Garib, Lorepur House, Faizabad, U.P.
5. Sheo Narain, Gandhi Nagar, Basti, U.P.
6. Harnath, Gandhi Nagar, Basti, U.P.—*Respondents*.

(1665)

This Election Petition under Section 80 of the Representation of People Act, 1951,

Showeth:—

1. That the Petitioner is an Elector whose name is entered at Serial No. 91 under Village Rampur, in part 284 of the Electoral Roll of the Nagar Assembly Constituency (Double-Member) for Election to the House of the People;

2. That No. 349, Basti Parliamentary Constituency is a Double-Member Constituency returning two persons to the House of the People, one to a Reserved Seat, and the other to a General Seat.

3. That 349 Basti Parliamentary Constituency is made up of Seven State Assembly Constituencies, namely, Khalilabad, Nagar and Bansi-East each of the three being a Double-Member Assembly Constituency and Basti, Harraiya-East, Harraiya-West and Domariaganj-South each of the four being a Single-Member Assembly Constituency;

4. That General Election to the House of the People and to the U.P. Legislative Assembly from these and other Constituencies in Uttar Pradesh was held in the months of January, February and March 1957.

5. That the six Respondents to this Petition were nominated in January 1957, for Election to the House of the People from 349, Basti Parliamentary Constituency (Double-Member).

6. That Respondents Nos. 1, 2 and 3 were nominated for Election to the General Seat and of them Respondent No. 3 Ayodhya Prasad eventually withdrew his Candidature within the time allowed therefor.

7. That Respondents Nos. 4, 5 and 6 were nominated for the Reserved Seat and of them Respondent No. 6, Harnath eventually withdrew his Candidature within the time allowed therefor.

8. That Polling in the Constituency took place on 25th February 1957 in Khalilabad, on 28th February 1957 in Nagar and Basti, on 3rd March 1957 in Harraiya-East and Harraiya-West, on 6th March 1957 in Domariaganj-South and on 9th March in Bansi-East, Assembly Constituencies comprising the said Parliamentary Constituency.

9. That the Counting of Ballot Papers cast for Election to the House of the People from the said Parliamentary Constituency, took place on 11th March and on 12th March 1957, on the premises of the Soldiers Board Office at Basti.

10. That after the said Counting the result of the Election was announced on 13th March 1957 at about 1-30 A.M.

11. That Respondent No. 4 Ram Garib was declared elected to the Reserved Seat in the House of the People from the said Parliamentary Constituency.

12. That Respondent No. 1 Keshava Deva Malaviya was declared elected to the General Seat in the House of the People from the said Parliamentary Constituency.

13. That the Election of Respondent No. 1 to the General Seat in the House of the People from 349, Basti Parliamentary Constituency is void inasmuch as the following major corrupt practices were committed by, or on behalf of, or in the interest of the said Respondent No. 1.

(a) Respondent No. 1 by himself and through persons who acted on behalf of him or with his connivance committed the Corrupt Practice of bringing Undue Influence to bear upon the Electors in the said Constituency in diverse ways of which details are given briefly in Schedule I attached to this Petition as part thereof.

(b) Respondent No. 1 committed the Corrupt Practice of Treating, the details whereof are given briefly in Schedule II attached to this Petition as part thereof.

(c) Respondent No. 1 by himself and through persons acting on his behalf or with his connivance committed the Corrupt Practice of Bribery, the details whereof are given briefly in Schedule III attached to this Petition as part thereof.

- (d) Respondent No. 1 by himself and through persons acting on his behalf or with his connivance committed the Corrupt Practice of Hiring Vehicles for the Transport of Electors, the details whereof are given briefly in Schedule IV attached to this Petition as part thereof.
- (e) Respondent No. 1 committed the Corrupt Practice of knowingly publishing a False Statement in relation to the Personal Character and Conduct of Respondent No. 2 in a manner calculated to prejudice the prospects of Respondent No. 2 who was a Rival Candidate at the same Election, details whereof are briefly given in Schedule V attached to this Petition as part thereof.
- (f) Respondent No. 1 committed the Corrupt Practice of obtaining the assistance of Government Servants for the furthering of his prospects at the Election, the details whereof are given in Schedule VI attached to this Petition as part thereof.
- (g) Respondent No. 1 incurred expenditure in connection with the said Election on certain items not disclosed in his Return of Election Expenses; details whereof are given briefly in Schedule VII attached to this petition as part thereof.

14. That Respondent No. 1 who secured far fewer votes than Respondent No. 2 succeeded nevertheless by the time of the counting of Ballot-Papers, through various Corrupt Practices such as, the opening of Ballot-Boxes and the transference of Ballot Papers during storage and the introduction of unused Ballot Papers into his own Ballot Boxes but the Petitioner in spite of his sedulous attempts to collect necessary details of such Corrupt Practices was bulked therein by persistent and calculated official obstruction, and the Petitioner is therefore unfortunately not at present in a position to describe the full particulars of such Corrupt Practices.

15. That Respondent No. 1 by himself and through persons acting on his behalf or with his connivance committed the Corrupt Practice of Abetment of False Personation of Electors; but as under existing Electoral and Rules the identification of Electors by Polling Agents of the Candidates has not been made mandatory the positive and direct proof of such Abetment has become largely unavailable; but the Petitioner however cites four cases of such False Personation, the details whereof are given in Schedule VIII attached to this Petition as part thereof.

16. That the Petitioner has made a Deposit of Rs. 1,000 (Rupees One Thousand) only, in the Government Treasury, at Basti, as the security required for the filing of this Petition, in proof whereof he attaches hereto Challan No. 139, dated 24th April 1957 of the Basti Government Treasury.

17. That the Petitioner does not claim any relief against Respondents Nos. 3 and 6 who withdrew from the contest and whose Nomination did not materially affect the result of the Election.

18. That the Petitioner does not claim any relief against Respondents Nos. 2, 4 and 5 whose Candidature at the Election did not materially vitiate the Election, to the knowledge of the Petitioner.

19. That the Petitioner prays that in view of the facts herein cited such of the following Reliefs as he is found entitled to be granted to him:—

- (i) That the Election of Respondent No. 1 Keshava Deva Malaviya to the General Seat in the House of the People from 349, Basti Parliamentary Constituency (Double-Member) be declared void.
- (ii) That Respondent No. 2 Krishna Karunakar Nayar be declared elected to the said General Seat in the House of the People from 349, Basti Parliamentary Constituency (Double-Member).
- (iii) That the Election be declared wholly void.
- (iv) That Respondent No. 1 be disqualified for the statutory period by reason of his committing the Corrupt Practices herein cited.
- (v) That the costs of these proceedings be awarded to the Petitioner from Respondent No. 1.

(Sd.) LAL RUDRA NARAIN PAL,

Petitioner.

BASTI, U.P.

The 25th April, 1957.

Verification

I, Lal Rudra *alias* Lal Rudra Narain Pal hereby declare that the contents of Paragraphs 1 to 18 above is true to my personal knowledge and the contents of paragraph 19 is true to my belief on information received.

BASTI, U.P.;

(Sd) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

SCHEDULE I

The details of acts constituting the Corrupt Practice of Undue Influence:—

1. Respondent No. 1 Keshava Deva Malaviya addressed late in the afternoon on or about 4th February 1957, a public gathering in Galla Mandi behind the Congress Office, in Gandhi Nagar, in the Town of Basti, and he spoke on the microphone to the attachment of loudspeakers.

2. Respondent No. 1 said at this meeting that a certain candidate, meaning thereby Respondent No. 2 Krishna Karunakar Nayar had installed an idol in a mosque at Ayodhya and was soliciting votes as reward thereof, and he repeated this statement on later dates in similar circumstances at Khalilabad and at Bansi.

3. Respondent No. 1 addressed prominent Electors whom he had treated to a Tea-party at his local residence in Basti on 1st February 1957 in the afternoon and spoke similar words against Respondent No. 2 attributing to him the Character of an idol-planter soliciting votes in reward for idol-planting.

4. Respondent No. 1 again addressed similarly prominent Electors whom he had treated to a Tea-party at his local residence in Basti on or about 22nd February, 1957, and again spoke similar words against Respondent No. 2 attributing to him the Character of an idol-planter soliciting votes in reward for idol-planting.

5. The said statements were calculated to incite and influence religious prejudice against Respondent No. 2 in the minds of a large section of the Electorate and so diminish materially his prospects as a candidate at the said Election.

6. The said statement were further calculated to appeal to the religious sentiments of a large section of the Electorate, with a view to furthering the prospects of Respondent No. 1 and to diminishing these of Respondent No. 2 they being rival candidates for Election to the General Seat.

7. Respondent No. 1 carried with him regularly and frequently an Armed Police Escort of considerable size when he visited various places in his Constituency such as Nagar, Kalwari, Khalilabad Maghar, Harraiya, Babhnan etc., for the purpose of canvassing for votes on various occasions between Nomination and Polling in the Constituency.

8. Respondent No. 1 convened separate meetings of Traders, Harijans, etc., in Pande Bazar in Basti Town on some day on or about the second week of February 1957, and canvassed the audience for votes for himself; and while he was doing so he arranged to have on duty at the site a police Guard and for the presence at the spot of no less a person than the Deputy Inspector General of Police of the Range.

9. The presence of Police Escort for Respondent No. 1 on these occasions was calculated to overawe the minds of the assembled Electors and so influence them unduly.

10. Respondent No. 1, on or about 9th March, 1957, at Bansi Polling station where polling was going on at the time intimidated a Polling Officer on duty and such intimidation was loudly and openly made in the presence of assembled electorates in a manner calculated to overawe and unduly influence their minds; and the Petitioner understands that the Presiding Officer had to report to the Returning Officer against the conduct of Respondent No. 1 on this occasion.

11. On 8th March 1957, Respondent No. 2 visited village Changera-Mangera in Bansi—East Assembly Constituency along with some workers of his own and some workers of Maulana Mohammad Kasim, an Independent candidate for the Bansi East Assembly Seat.

12. As soon as the villagers collected to hear Respondent No. 2 and his workers, a gang of ruffians, headed by one Ram Lalit of the village, who is the Sabha-Pati of the village and was also a Polling Agent of Respondent No. 1 mobbed the visitors and their vehicles, shouted offensive slogans and abusive threats; and by hostile words and gestures demanded the immediate withdrawal of the visitors from the village on pain personal violence.

13. Ram Lalit and his gang dagged the visitors, as the latter moved from place to place in the village in the attempt to secure peaceful hearing from the villagers who had gathered for the purpose, but the gang by their ceaseless clamour and truculent threats made the peaceful holding of a meeting impossible.

14. Respondent No. 2 and his companions could not, inspite of the goodwill of the villagers who were gathered as listeners address them, as personal violence resulting in a possible riot seemed imminent.

15. Respondent No. 2 and his companions had to leave the village without being able to speak to the villagers.

16. Throughout the greater part of this incident a Police Officer on duty, named, Shiv Pujan Srivastava repeatedly admonished the gang against their monitory conduct, attitude and acts, but the gang would neither listen nor desist.

17. Finally when Respondent No. 2 and his companions were leaving the village, the said Police Officer told them that no would himself be reporting the incident to his Superior Officers and the Petitioner does not doubt that such a report was eventually made by the said Police Officer.

18. The intimidation of Respondent No. 2 by the agents and hirelings of Respondent No. 1 in a manner calculated to prejudice freedom of franchise amounted to the committing of undue influence in a markedly naked and blatant manner.

19. Respondent No. 1, in the course of his canvassing tours in the Constituency, intimidate many Electors and threatened them with imprisonment if they voted or worked for Respondent No. 2 and in particular be threatened with the imprisonment in jail the following persons on the occasions specified:—

- (i) Ram Jag Pande son of Ram Tahal Pande of village Putnahari, P.S. Paikolia, and
- (ii) Ram Baran son of Unknown residence of Rcota, P. S. Paikolia at Bahnan just after Respondent No. 1 had addressed a meeting there on the eve of polling,
- (iii) Achhabar Singh son of Kali Prasad Singh of Village Ainpur, P.S. Paikolia.

at Harraiya just after Respondent No. 1 had addressed a meeting there on the eve of polling;

and the intimidation was in each case calculated to overawe those who were inclined to vote for Respondent No. 2 and not for Respondent No. 1.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

Verification.

I, Lal Rudra, alias Lal Rudra Narain Pal, Petitioner, hereby declare that the contents of paras 1 to 19 above is true to my belief on information received.

BASTI;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

SCHEDULE II

Particulars of Treating

1. On 1-2-1957, at his local residence in Basti, Respondent No. 1 gave a Tea Party to certain Prominent Electors in his Constituency and canvassed them for votes and he also spoke to them against Respondent No. 2 declaring that Respondent No. 2 was an idol-planter who was asking for votes as a reward for idol-planting.

2. On or about 22nd February, 1957, he again gave a similar Party to certain Prominent Electors of the Constituency and again made the same appeal for votes for himself and the same statement indisparagement of the candidature of Respondent No. 2.

3. These parties were thrown for the purpose of extending the influence and popularity of Respondent No. 2 over the Electorate through the entertainment of prominent Electors with food.

BASTI, U.P.;
The 25th April, 1957

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner.

Verification

I, Lal Rudra, *alias* Lal Rudra Narain Pal, petitioner, hereby declare that the contents of paras 1 to 3 above are true to my belief on information received.

BASTI, U.P.;
The 25th April, 1957.

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner.

SCHEDULE III

Particulars of Bribery

1. Respondent No. 1, his agents and persons acting in connivance with him distributed gratis at dozens of places and to thousands of persons in the Constituency, money, dhotis, blankets, shirts, grains and Charkhas, on the eve of the Election, in a manner calculated to further his prospects of the Election.

2. Respondent No. 1 his agents and persons acting in connivance with him arranged to get distributed considerable sums of money as Takavi Loans to numerous Electors in the Constituency in a manner calculated to further the prospects of Respondent No. 1 in the Election.

BASTI, U.P.;
The 25th April, 1957

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner.

Verification.

I, Lal Rudra, *alias* Lal Rudra Narain Pal, Petitioner, hereby declare that the contents of the above Paragraph is true to my belief on information received.

BASTI, U.P.;
The 25th April, 1957.

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner.

SCHEDULE IV

Particulars of Hiring of Vehicles

1. Respondent No. 1 and his agents and persons acting in connivance with him provided hired and other vehicles at numerous places in the Constituency for conveyance of the Electors to and from the Polling Sites and in particular he provided "CYCLE RIKSHAWS" for this purpose at Basti, Khalilabad and Bansi, on the dates of Polling, as well as Bullock-Carts at various Polling Stations in the interior.

BASTI, U.P.;
The 25th April, 1957

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner

Verification.

I, Lal Rudra, *alias* Lal Rudra Narain Pal, Petitioner, hereby declare that the contents of the above Paragraph is true to my belief on information received.

BASTI, U.P.;
The 25th April, 1957

(Sd.) LAL RUDRA NARAIN PAL,
Petitioner.

SCHEDULE V

Details of False Statement

1. Respondent No. 1 Keshava Deva Malaviya addressed late in the afternoon on or about 4th February 1957, a public gathering in Galla Mandi behind the Congress Office, in Gandhi Nagar, in the town of Basti, and he spoke on the microphone to the attachment of loud-speakers.

2. Respondent No. 1 said at this meeting that a certain candidate, meaning thereby Respondent No. 2 Krishna Karunakar Nayar, had installed an idol in a mosque at Ayodhya and was soliciting votes as reward thereof; and he repeated this statement on later dates in similar circumstances at Khalilabad and at Bansi.

3 Respondent No. 1 addressed prominent Electors whom he had treated to a Tea-Party at his local residence in Basti on 1st February 1957, in the after-noon and spoke similar words against Respondent No. 2 attributing to him the character of an idol-planter soliciting votes in reward for idol-planting.

4. Respondent No. 1 addressed prominent Electors whom he had treated to a Tea-Party at his local residence in Basti on or about 22nd February, 1957, and again spoke similar words against Respondent No. 2 attributing to him the character of an idol-planter soliciting votes in reward for idol-planting.

5. The said statements were false.

6. Respondent No. 1 knew or had reasons to believe that the statements that he was making were not true.

7. The statements were calculated to lower the personal character of Respondent No. 2 in the estimation of a considerable section of the electorate.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

Verification

1. Lal Rudra, *alias* Lal Rudra Narain Pal, Petitioner, hereby declare that the contents of paras 1 to 7 above is true to my belief on information received.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957

Petitioner.

SCHEDULE VI

Particulars of Obtaining Assistance of Government Servants

1. Respondent No. 1 engaged as his workers various Government Servants and quasi Government Servants who were Adalati Panches, Sar Panches, and he also employed as his workers Sri Dan Bahadur Singh and Tulsi Lal Civil Government Counsel.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

Verification

1. Lal Rudra, *alias* Lal Rudra Narain Pal Petitioner, hereby declare that the contents of the above paragraph is true to my belief on information received.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner

SCHEDULE VII

Particulars of Suppression of Expenditure

1. Respondent No. 1 has not disclosed in his Return of Election Expenses the expenditure incurred in the purchase of cloth for the making of party flags although the expenditure incurred on the dyeing of the cloth is disclosed.

2. Respondent No. 1 has not disclosed in his Return of Election Expenses the expenditure incurred on the tours of Shri Mahabir Tvasi erstwhile Minister in the Union Government, and of Shri Charan Singh, Minister on the U.P. State Government. Their tours were undertaken for the express and avowed purpose of supporting the candidature of Respondent No. 1.

3. Respondent No. 1 has not disclosed in his return of Election Expenses the expenditure incurred in the distribution of leaflets by aeroplane at various places in the Constituency on or about the 27th of February 1957, when Shivratri fairs being held and this distribution of leaflets on a very large scale was made in furtherance of the Candidature of Respondent No. 1.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

. Petitioner.

Verification

I, Lal Rudra, *alias* Lal Rudra Narain Pal Petitioner, hereby declare that the contents of Paras 1 to 3 above is true to my belief on information received.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957

Petitioner

SCHEDULE VIII

Details of False personation

1. On 25-2-57 at Polling Station No. 257 in Khalilabad Assembly Constituency (no. 81) a certain person by name Challing falsely impersonated another Elector under abetment from the Agents of Respondent No. 1 and the vote was duly challenged.

2. On 25-2-57 at Polling Station No. 18 (Belhar Khurd) in Khalilabad Assembly Constituency a certain person by name Khuddur falsely impersonated on Elector, under abetment by the Agents of Respondents No. 1 and the vote was duly challenged.

3. On 28-2-57 at Madarpur Polling Station a certain person by name Jahil acting under abetment by agents of Respondent No. 1 impersonated on Elector by name Khalilabad and the vote was duly challenged.

4. On 9-3-57 at Masaicha Polling Station in Bansi-East Assembly Constituency a certain person by name Abid Ali, acting under abetment from agents of Respondent No. 1 falsely impersonated another Elector and the vote was duly challenged.

BASTI, U.P.

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner

Verification

I, Lal Rudra, *alias* Lal Rudra Narain Pal Petitioner, hereby declare that the contents of paras 1 to 4 above is true to my belief on information received.

Signature.....

Petitioner.

BASTI, U.P.;

(Sd.) LAL RUDRA NARAIN PAL,

The 25th April, 1957.

Petitioner.

[No. 82/324/57.]

By order,

DIN DAYAL, Under Secy.